

## History of the Growth of the Muslim Legal System:

History of the Growth of the Muslim Legal System is the study of how Islamic law has evolved and why it changed. History of the Growth of the Muslim Legal System is different from the Islamic history. We are concerned here not with history but with growth and development of law. We examine the foundation of the legal schools through a historical analysis of Islamic law in the era of the Prophet, rightly guided caliphs, tabi in, and the great Imams. We will explore the process of the development and refinement of a legal school and why following a legal school is the best option to implement Islam in your life.

We can divide the whole development of Islamic law during the past 1500 years into five periods. The first period begins from the date when the Prophet Muhammad (PBUH) was inspired by the first revelation and terminates with the end of Prophetic career. The second period starts with the period of the first Caliph and covers the reign of four Caliphs. The third period marks the beginning of the four Sunni schools of thought and then the fourth period begins where the period of Sunni schools of thought ends. The fifth and final period starts with the twentieth century and is going on till today.

### **1) Legislative Period / Prophetic era:**

The first period commenced when the Prophet Muhammad (PBUH) was guided by the first revelation by God and ended with his death. The prophetic era, comprising the life of the Prophet (peace be upon him), saw the completion of the edifice of the Shariah (Islamic Law) and the **completion of the religion**. The prophetic period (610-32 A.D)-the whole Quran was revealed and the Prophet explained and reinforced it through his own teaching and practice, the Sunnah. **The Qur'an became the first source of Islamic Law**. It was that period during which not only the Qur'an became Law for public, but also were the **precepts of the Holy Prophet (PBUH)** made available to the Muslim community as a second source of Islamic Law. It is the embodiment of the dictates of the Allah Almighty who is considered in Islam to be the **supreme Legislator**. It was the time when laws were enacted by the divine legislator and promulgated in the words of the Quran, or by the precepts of Muhammad(PBUH) as Sunnah. It is for this reason that this period is known as the "**Legislative period in Islam**". There was no need for speculative legal reasoning (ijtihad) simply because the Prophet himself provided definitive rulings on issues as and when they arose.

The traditions of the Prophet Muhammad (PBUH) are no less important both in respect of their source as well as in their nature, as they are regarded as having in them the element of divinity. Qur'an and Tradition, which format the basis of Islamic Law, laid down many principles and introduced new reforms in all fields of law in civil, criminal and constitutional laws the ages of darkness:

### **2) Interpretation Period /Period of Pious Caliphs:**

The second period is the era of the Prophet's Companions , the rightly guided Caliphs on 11 A.H, (632-61 A.D) and their successors ( Tabiun) and ends with the foundation of different schools of jurisprudence. This period is considered the preliminary stage for the codification of Islamic Law. It was an age is as has been observed mainly of **collection, interpretation, supplementation of the textual subject and extension** of Islamic laws by collective deliberations.

In this period fiqh and ijthad find their historical origins. The Companions of the Prophet took a rational approach toward the textual materials - the Quran and the Sunnah. The divine law (Qur'an and Traditions) was developed by dint of hard effort and literal devotion by the Caliphs towards the ordinary sources of Islamic Law.

Speaking of the development and growth of Muslim legal system in generally one should note that during A.H 11 or A.D 632, with the end of the Prophetic career, the community was left only with the Qur'an and the Sunnah of the Prophet (PBUH) for its guidance. The people eventually had to look to the trusted lieutenants of the Prophet (PBUH) Hazrat Abu Bakar, Umar, Usman and Ali (R.A). These pious people in turn had to decide matters in the light of the Qur'anic Injunctions and precepts of the Prophet (PBUH). If they felt a particular point was not sufficiently covered by the Qur'an or Traditions, they had to decide the matter in the light of Quran and Sunnah through reason. Another safe and reliable method, evolved by these companions, was the unanimous verdict of the group of the learned personalities known as Ijma. Ijma means the consensus of the learned people on any question of Law. Hence, consciously or unconsciously **Ijma as a third source** of Islamic Law, developed in this period. Even the election of the first caliph viz. Hazrat Abu Bakar (RA) as the chief executive of the community, was based on consensus. There was Ijma on the Qur'an and the Traditions as very sound and solid sources of Islamic Law. Subsequent to the introduction of Ijma, as a method of reasoning, the use of **Qiyas**, i.e. analogy, also developed to a certain extent.

The period of Caliphate the age of rightly guided Caliph, was the golden age of Islam. It is this period which has witnessed the rise and fall of the institution of Caliphate: it is the second phase in the development of Islamic Law which is marked by the emergence of Ijma and to a certain extent Qiyas as a source of Islamic Law. The administrative decrees issued by the early Caliphs supplied answers to many legal problems..

During this time period the Quran was compiled into a single book and copies of it were made to send across the Muslim world, which had expanded well beyond the Arabian peninsula. The Ahadith of the prophet (PBUH) were still not formally codified and complied.

### **3) Period of Umayyads/ The Third Period of Tabi'un (Followers) (661-750AD):**

This entire period falls Within the rule of Banu Umayyads which is known as the first dynasty of Muslims. This dynasty was established by Hazrat Mu'a Wiyah Ibn Abi Sufyan in 661 A.D., as a result of First Muslim Civil War (first Fitna). During this period, with addition of previous sources of Islamic law i.e. the Quran, the Sunnah, Ijma And Ijthad, the use of Qiyas (analogy) and Istehsan became much more Systematic. The occurrence of ijma with participation of all Muslim jurists became more difficult, consequently it was confined to the schools of each region. Thus, earlier schools were established during this period as some of the Greatest jurists namely Abu Hanifa, Abu Yousuf, Muhammad al-Shaybani and Many more were born during this period and served as Qazis for deciding Matters. The narration of traditions became widespread due to new cases Coming up for decision. The growing need of traditions as precedents also led to falsehood in the narration of traditions, which compelled some jurists to evolve very strict rules for checking the authenticity and that obviously affected The development of Islamic Law.

### **4) Period of Abbasids/ The Fourth Period of Growth (750 to 961 AD):**

This period falls under Abbasids Dynasty and lasted for more than 200 years. This period stands out due to three main distinctions: 1) Fiqh flourished in this period and achieved Maturity; 2) compilation of all kinds of knowledge took place, the most remarkable being of that fiqh and; 3) the remaining schools of thought were formed In this period and established. The traditions of Holy Prophet Muhammad (PBUH) were collected and complied by Hazrat Umar ibn Abdul Aziz during this period. Tafsir of verses relating to Ahkam of Quran and Sunnah had begun to be collected and compiled during the period of Tabi'un, later on, during

the period of the Abbasids, the scholars undertook the compilation of these Tafsir and arranged them in accordance with verses and surahs of the Quran.

**Period of the Maturity of Legal System (961-1397 A.D):** This age is considered as the Golden age of Islamic legal history as more than 95% of literature work produced during this period. In fact, the entire literature of the Shaafi and Hanbali school are production of this age. This was the age of great organizers through whose efforts Islamic legal system reached full maturity. It would be pertinent to say that all the disciplines, their classifications and expositions are a contribution of this period. Usul al-fiqh, Qawaid fiqhiyah (principles of Jurisprudence), the maqasid al-Shariah (theory of purpose of law), separate disciplines of Ahkam al-Quran and some of the greatest commentaries (tafsirs) are a contribution of this age. Some of the doctrines and movements like taqlid that may irritate some modern minds were also the product of this period.